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Attention Docket No. 2000-57

To Whom It May Concern:

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DISSEMINATION BRANCH  
OFFICE OF THRIFT SUPERVISION  
WASHINGTON, D.C.

This represents the comments of Keefe, Bruyette & Woods, Inc. to the Office of Thrift Supervision's Notice of Proposed Rulemaking ("Notice") relating to proposed changes to 12 C.F.R. Parts 563b and 575. For your information, Keefe, Bruyette & Woods, Inc. ("KBW") is an investment banking firm headquartered in New York. Established in 1962, KBW is an institutionally oriented securities broker/dealer and full service investment bank that specializes in the financial services sector. Through its office located in Columbus, Ohio, KBW has been one of the leading providers of investment banking services to the thrift industry since 1990. The Columbus office, formerly known as Charles Webb & Company, has acted as advisor and marketing agent in 109 mutual to stock conversions and 9 mutual holding company reorganizations since 1992, raising gross proceeds for the thrift industry in excess of \$3.5 billion.

General Comment – KBW supports the OTS' intent to improve the attractiveness of the alternatives available to mutual thrift institutions. We believe that the continued viability of the thrift industry is dependent upon the ability of each institution to be organized in a form that best fits its business plan. Each institution should have available to it the flexibility to adapt and change its corporate charter to meet the challenging financial and technological environment in which we exist. In this regard, KBW supports the OTS proposal to improve the attractiveness of the mutual holding company structure and to review the conversion process. However, we do not believe that the MHC structure should be given a preference over other forms of organization, including a standard stock conversion or remaining as a mutual institution. We believe that such unintended result may occur when reviewing the OTS proposal in total. Moreover, empirical evidence suggests that a revision to the rules that would lead the equity markets to believe that the second step conversion of mutual holding companies would be more difficult or less likely to occur would have devastating effects on the MHC market. The market value of many MHCs is based, in part, on the potential, as determined by the market, for the second step conversion of the MHC. If the rules are perceived by the market to lessen the potential for such a second step, the evidence suggests that the market values of MHC would be negatively affected. For this reason, we make the following comments, which we believe would create a more level playing field among the alternative corporate forms available to a thrift institution.

Pre-Filing Meeting With OTS On The Business Plan – KBW has always believed that a change in corporate form should be a part of an institution's comprehensive business plan. And in fact, we endorse the current business plan review during the application process. However, we are concerned about the delay that may result by the imposition of a pre-filing meeting with the OTS Regional Director and 30-day business plan review prior to filing an application for conversion. This additional process could add up to an additional 2 months to a process that already takes approximately 5 to 6 months to complete. The additional time spent would add to the cost of the transaction, particularly if an undue delay results in an institution having to update its financial information to meet SEC requirements. In addition, any delay may result in additional market risks associated with the transaction. In today's quickly changing markets, a delay of two months may impact an institution's valuation and ability to complete a stock offering. For these reasons, KBW does not favor a lengthening of an already long and costly process. Rather, we would prefer retaining the current process in which an officer or committee of the Board meets with the OTS Regional Director to discuss the relative merits of the transaction after the plan of conversion is adopted. We believe that the OTS would have adequate time during the application process to review and comment on the business plan and make appropriate inquiry into whether management has assessed adequately the ramifications of a change in corporate charter to an MHC or full stock form of organization.

Feasibility of Growth Requirement – The OTS states in the Notice that a converting institution must discuss its record of success and experience in implementing growth or expansion plans. While it is advisable for converting institutions to demonstrate a prior history of growth and expansion, it should be noted that many institutions are located in slow growth markets. For many of these companies, growth will be difficult whether in the mutual, MHC or stock form of organization. We do not believe these companies should be penalized in the conversion process or prohibited from converting to stock form if such conversion, nonetheless, makes sound business sense. As an example of the benefits of conversion to a company in a slow growth area, we cite one of our first conversion clients, Perpetual Federal Savings Bank, Urbana, Ohio. Perpetual converted in 1991 raising gross proceeds of \$7 million. At that time, Perpetual had total assets of \$125.1 million, total loans of \$108.7 million, deposits of \$113.1 million and capital of \$11.4 million. Urbana is located in Champaign County a primarily rural community in Central, Ohio that has experienced little growth in the years 1990 through 1999. During that period, the population of Champaign County grew a total of only 6.40%. Further, thrift deposits grew only 4.78% in the four year period from June 1995 through June 1999. Despite the low growth statistics of its market area, Perpetual has had continued success since its conversion. As a result of the capital raised in the conversion, Perpetual has been able to grow its assets to \$258.4 million or 106.6% for a 7.5% compounded annual growth rate. Further, Perpetual has provided its shareholders with a 12.85% annual return on investment since 1995. Clearly this is an instance where conversion enhanced a thrift's ability to serve its community, despite the slow growth rate of the community.

We also cite the growth opportunities that become available to a stock company after conversion. As a mutual institution, acquisition opportunities are limited since mutuals can only offer cash as consideration in a merger or acquisition, which places mutuals at a disadvantage since most

sellers favor stock transactions due to the favorable tax consequences. Obviously, an institution cannot quantify prior to conversion the impact that an acquisition will have on its financial condition after conversion. In this regard, we cite First Federal Savings and Loan Association of Warren, Warren, Ohio, as an example of an institution that was able to grow through acquisitions that became available only after completing its conversion. Warren, Ohio is located in Trumbull County in the industrial Northeast corner of the State. During the years 1990 through 1999, Trumbull County's population declined 1.53%. Thrift deposits during the four-year period June 1995 through 1999 grew only .79%. In light of these demographic statistics, First Federal's opportunities to grow internally have been limited. During the four-year period prior to conversion, First Federal grew only 26.7% or an annual compound growth rate of 6.13%. As a result of the \$104 million raised in the conversion together with the ability to offer stock as consideration, First Federal has found significant growth opportunities through two acquisitions, which will result in the Company having assets of \$1.7 billion, loans of \$1.2 billion, deposits of \$1.0 billion and capital of \$211 million. Moreover the mean estimated earnings per share, as projected by Wall Street analysts, is \$1.12 for 2001, as compared to earnings per share of \$.93 for the trailing 12 months. Without its conversion to stock form, First Federal would not have been able to make either acquisition since in both cases, the seller would only take stock as consideration. Additionally, it was not possible to predict these expansion opportunities, therefore such acquisitions could not have been included in the business plan.

Minimum Return on Equity Requirement – The Notice states that a converting institution's business plan should reflect at a minimum a projected return on equity that exceeds, by an undefined margin reflecting relative investment risk, the institution's rates on long term certificates of deposit. KBW acknowledges that return on equity is an issue with many converting institutions given that many are over capitalized prior to conversion, which position is then compounded by the additional capital raised in the conversion. Obviously, the recent downturn in the market for thrift stocks and the resultant reduction in conversion appraisal values have helped alleviate somewhat the overcapitalization and low return on equity issues. We believe continued caution by the conversion appraisal professionals and the OTS with respect to valuations will allow converting institutions to provide higher returns on equity.

KBW notes that in determining the potential success of a conversion, the focus should not be placed solely on the potential return on equity, but rather should include a potential return on investment analysis, which would include potential price appreciation as well as dividends paid to determine investor total return. While return on equity is an important factor in determining the ability of an institution to meet investor demands, a more relevant factor is total return on investment. In this regard, we note that the recently converted institutions will trade initially on a relative price to book basis immediately after conversion despite a low return on equity. Recently converted institutions (28 institutions converted since January 1, 1999) trade at an average price to book of 79.66% compared to 89.42% for all publicly traded thrifts nationally. The median return on equity for the recently converted group was 4.40% compared to the national median of 7.78%. Despite the lower price to book value and return on equity, the recently converted group has returned a much higher total return to shareholders year to date, of 18.88% compared to 3.70% for all thrifts nationally.

Finally, KBW believes a converting institution should be able to include in its conversion business plan the impact on return on equity and total shareholder return from share buybacks and return of capital. We note that both of these capital management tools have been utilized very effectively by most thrifts and by many companies in corporate America in general as methods to improve both return on equity and total shareholder return. Both return of capital and share repurchases are permitted by the OTS and we applaud the OTS amendment to the rules which allow an institution to buy back an unrestricted number of shares one year after conversion, subject to safety and soundness principles. It is inconsistent then to permit an institution to repurchase shares and pay to shareholders a return of capital but disregard such critical capital management tools when forming a business plan. Businesses in all industries and particularly commercial banks have employed stock repurchases as a means to effectively manage capital. Further, while converting institutions may anticipate an acquisition to leverage its capital, if an acquisition is not available, the ability to include repurchases and return of capital as alternative plans should be permitted.

Consideration of Other Methods to Raise Capital – The OTS proposal states that institutions should seriously consider the mutual holding company form of organization and other methods to raise capital, including debt or trust preferred securities issuance, REIT, mutual capital certificates and other methods, rather than a full conversion. KBW believes that an institution should be permitted to select the corporate form and method to raise capital that best fits the business plan under which it operates. A mutual's Board and management, together with qualified advisors, should be able to study the appropriate form and come to its own conclusions without undue cost or expense. In this regard, we believe that an institution would incur substantial additional expense if it had to prove not only the viability of selecting a standard conversion, but also compare relative advantages and disadvantages of a standard conversion to an MHC formation, trust preferred security issuance, senior or subordinated note issuance, formation of a real estate investment trust, mutual capital certificates or other methods to raise capital. In addition, we note that while theoretically, these methods to raise capital are available to all institutions, KBW believes that only the largest and those able to obtain a rating from a qualified rating agency would be able to actually utilize the debt and trust preferred securities markets.

MHC Benefit Plan Revisions – The OTS proposal would permit an institution to adopt stock benefit plans as if the minority shareholders owned 49% of the institution regardless of the amount actually issued to the public. KBW does not have a view on the specific percentage of shares that an MHC should be able to provide through its stock benefit plans. Rather KBW believes that the amount of stock benefits should be viewed in light of the cost of the benefit plans and the overall impact from the level of such benefits on the financial condition, earnings and future prospects of the company as set forth in the business plan.

Enforcement of Three-Year Prohibition on Acquisitions – The Notice states the OTS' intention to review closely any proposed acquisition of a thrift within three years after conversion. KBW believes that such prohibition should be enforced on behalf of institutions that have been

Manger  
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subjected to shareholder activists that are looking solely for a quick return on their investment without giving the institution adequate time to carry out its business plan. It should also be noted, however, that a merger or acquisition may be an appropriate course for many institutions. Partnering with another institution can enable a thrift to better serve its community by expanding the products and services available. In addition, a merger or acquisition can also improve substantially the financial condition of an institution. Mergers and acquisitions also address management succession issues that many thrifts face today. In this regard then, KBW prefers that the OTS not create a blanket prohibition against acquisitions within the first three years after conversion, particularly when the Board supports such transaction. Rather, the OTS should allow a Board of Directors to manage the company as is appropriate and decide whether to engage in a sale of the company based on the business plan and the Board's fiduciary obligations.

Shareholder Vote on Stock Benefit Plans – The OTS is retaining the current requirement that stock benefit plans be adopted by the majority of the outstanding shares at a duly called meeting of shareholders. We note that most converting institutions have listed their shares on the Nasdaq market and that the Nasdaq requires shareholder approval for benefit plans by only a majority of the shares voting at a duly called shareholder meeting. Considering the over 5,000 companies that trade on the Nasdaq market, KBW does not believe that a different standard should be applied to thrift institutions compared to non-OTS regulated companies.

KBW wishes to thank the OTS for the opportunity to provide the above comments to the OTS Notice of Proposed Rulemaking. Please feel free to contact John Bruno, Managing Director with any comments or questions you may have at 800-966-8404.

Very truly yours,

A handwritten signature in cursive script that reads "Keefe Bruyette & Woods, Inc." The signature is written in dark ink and is positioned above the printed name of the company.

Keefe, Bruyette & Woods, Inc.